

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF PENNSYLVANIA

ANTHONY DeFRANCO,
Plaintiff,
v.
WILLIAM WOLFE, et al.,
Defendants.

)
) No. CA-04-230-ERIE
) Magistrate Judge Baxter
) District Judge Cohill
)
)

PETITION FOR TEMPORARY RESTRAINING ORDER

Pursuant to Federal Rules of Civil Procedure, Rule 65(d), Plaintiff moves this Honorable Court for a Temporary Restraining Order and in support avers:

1. On or about October 29, 2004, this Court issued a temporary restraining order against the Defendants to not transfer Plaintiff from SCI Albion (Doc.#11).
2. After a preliminary injunction hearing, and Defendant Barr's affidavit to this Court that there were no planned transfer's, this Court Recommended that the TRO issued be lifted, accepting Defendant Barr's affidavit as being true (Doc.#41 n.2).
3. As this Court is aware, approximately one (1) week after the District Court adopted the Recommendation, the Defendant's (namely, Defendant Barr) did in fact transfer Plaintiff across the state in direct response over the filing of this lawsuit (see Ex. "A", grievance reply, saying Mr. Barr placed a separation in).
4. Plaintiff was transferred back to SCI Albion on August 2, 2005.
5. During the transfer process, one of the officers made a comment implying that Plaintiff would be "getting the bus rides" (words to that effect---meant that he would be transferred continually).
6. Due to the past threats and follow through retaliatory transfer, Plaintiff is asking this Court to issue a temporary restraining order

(and preliminary injunction) stopping the Defendants from transferring Plaintiff again. Being transferred creates an extreme hardship as he requires sedating medications each time he is moved due to his mental health; the cost of shipping is enormous; the hardship on himself and family; the correction of addresses and much more.

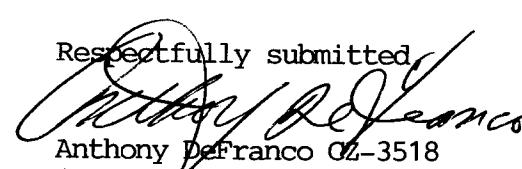
7. Indeed, this threatened transfer is not speculative nor remote; the Defendants have already did it when they stated under oath that they would not. Plaintiff was threatened with repeated transfer's during the transfer process on 8/2/05.

8. The Defendants sent Plaintiffs counselor at SCI Smithfield a 'follow up' rationale for transferring him (in addition to Defendant Barr's reason for the transfer). Plaintiff is currently without the exact additional manufactured reason used by the Defendants but does know they have used other unjust reasons to transfer him.

9. Plaintiff is amending and supplementing this complaint by permission of this Court. That amendment deals largely with the retaliatory transfer. Based upon the circumstances of this case Plaintiff asks that this Court issue the requested temporary restraining order and preliminary injunction stopping this from happening again. This Court's intervention is desperately needed.

WHEREFORE, Plaintiff prays this Honorable Court issue a temporary restraining order consistent with the requests made herein.

Date: 8/9/05

Respectfully submitted,

Anthony DeFranco CZ-3518
10745 Route 18
Albion, Pa. 16475-0002

CERTIFICATE OF SERVICE
Service was made by US First
Class Mail to the Attorney
General's Office, 564 Forbes Ave.,
Pittsburgh, Pa. 15219, this date.

DC-804
Part 2COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF CORRECTIONS
P.O. BOX 598
CAMP HILL, PA 17001OFFICIAL INMATE GRIEVANCE
INITIAL REVIEW RESPONSE

GRIEVANCE NO.

112276

TO: (Inmate Name & DC No.)	FACILITY	HOUSING LOCATION	GRIEVANCE DATE
DeFranco, Anthony CZ-3518	SCI Albion	B/B 49	3/15/05

The following is a summary of my findings regarding your grievance:

Mr. DeFranco has a formal separation in place from Mr. Barr. It is felt that based on pending litigation it is in the best interest of all parties that he not be housed at SCI-Albion. No inmate has the right to determine where he or she will be housed.

Inmate was not available for signature as he is currently at SCI-Smithfield.

RESOLVED: _____ DATE: _____
Inmate's Signature

UNRESOLVED: _____ DATE: _____
Inmate's Signature

cc: Original – Ms. McWilliams
Grievance Officer
Inmate
DC-15

WAB 3-29-05

Print Name and Title of Grievance Officer	SIGNATURE OF GRIEVANCE OFFICER	DATE
Ronald J. Bryant, CCPM	<u>Bryant</u>	3/28/05

EX. "A"